

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN WAYNE ROGERS,

Defendant.

CR 16-26-M-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 30, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).


Judge Lynch recommended this Court accept Brian Wayne Rogers’ guilty plea after Rogers appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of conspiring to distribute,

and possess with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), as set forth in Count I of the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment, and agrees that he possessed a firearm. In exchange for Defendant's plea, the United States agrees to dismiss Counts II, IV, and VI of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 60), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Brian Wayne Rogers' motion to change plea (Doc. 40) is GRANTED and Brian Wayne Rogers is adjudged guilty as charged in Count I of the Indictment.

DATED this 15th day of September, 2016.



Dana L. Christensen, Chief District Judge
United States District Court